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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re R.V., a Person Coming Under
the Juvenile Court Law.

B290210

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. 18CCJP01726A)

Plaintiff and Respondent,

v.

R.V.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County. Kim L. Nguyen, Judge. Affirmed and remanded with directions.

Nicole Williams, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

The juvenile court asserted jurisdiction over R.V. and made various dispositional orders. R.V.'s father (Father) contends the court and the Los Angeles County Department of Children and Family Services (DCFS) failed to comply with the requirements of the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.). We affirm the dispositional orders and remand the matter for the juvenile court and DCFS to comply with ICWA.

FACTUAL AND PROCEDURAL BACKGROUND

On March 15, 2018, DCFS filed a dependency petition alleging R.V. is a person described by Welfare and Institutions Code section 300, subdivisions (a), (b), and (j).¹ The petition alleged, among other things, that Father physically abused R.V. and her siblings, has substance abuse issues, and engaged in violent altercations with his female companion in R.V.'s presence. DCFS subsequently amended the petition.²

In connection with the dependency proceedings, Mother completed a Parental Notification of Indian Status form indicating she may have Cherokee ancestry through her father (maternal grandfather). Father also completed a Parental Notification of Indian Status form and indicated his father (paternal grandfather) and mother (paternal grandmother) may have been members of the Omaha tribe. At the detention hearing, Father clarified that paternal grandfather's mother was registered with either the Sioux, Omaha, or Pawnee tribes. The court found it had reason to believe R.V. is an Indian child, and

¹ All further unspecified statutory references are to the Welfare and Institutions Code.

² Due to the nature of the issue raised on appeal, it is unnecessary to set forth the facts underlying the juvenile court's findings and orders that do not relate to ICWA.

ordered DCFS “to notify the Cherokee Nation because of this information that needs to go into the other information—the Sioux information and the Pawnee. Okay. And the Bureau of Indian Affairs.”

After the detention hearing, a DCFS social worker followed up with Mother and Father about their claims of Indian heritage. Mother repeated that she may have Indian heritage through maternal grandfather, but she did not have more specific information. Father said his family has connections to the Omaha tribe, and he provided the social worker information for some of his family members. The social worker then spoke to paternal grandfather, who said he would look into whether there was Indian heritage in his family. The record does not show any further efforts by DCFS to investigate R.V.’s Indian heritage. Nor does it indicate that DCFS provided notice to any Indian tribe or the Bureau of Indian Affairs (BIA).

The court held a jurisdiction hearing on April 10, 2018, at which it sustained the amended petition in part and found R.V. to be a person described by section 300, subdivisions (a), (b), and (j). The court made various orders at a subsequent disposition hearing. The court did not discuss or make any express findings with respect to ICWA at either hearing.

Father timely appealed.

DISCUSSION

On appeal, the sole issue raised by Father is ICWA compliance. DCFS filed a “concession letter” in lieu of respondent’s brief, indicating it does not object to the matter being remanded to ensure compliance with ICWA. We agree that remand is necessary.

ICWA provides for specific notice requirements when a juvenile court knows or has reason to know that an Indian child is involved in a dependency proceeding. (25 U.S.C. § 1912(a).) “This notice requirement, which is also codified in California law (Welf. & Inst. Code, § 224.2) . . . enables a tribe to determine whether the child is an Indian child and, if so, whether to intervene in or exercise jurisdiction over the proceeding.” (*In re Isaiah W.* (2016) 1 Cal.5th 1, 5.) The juvenile court must determine whether proper notice was given under ICWA and whether ICWA applies to the proceedings. (*In re Asia L.* (2003) 107 Cal.App.4th 498, 506.)

To facilitate ICWA’s notice requirements, the juvenile court and DCFS have an affirmative and continuing duty to inquire whether a child for whom a petition under section 300 has been filed is or may be an Indian child. (§ 224.3, subd. (a); *In re Isaiah W.*, *supra*, 1 Cal.5th at p. 9.) If the court or DCFS has reason to know the child may be an Indian child, DCFS must make further inquiry regarding the child’s Indian status, as soon as practicable, by interviewing the child’s parents and extended family members to gather information required for the ICWA notice. (§ 224.3, subd. (c); Cal. Rules of Court, rule 5.481(a)(4)(A); *In re Breanna S.* (2017) 8 Cal.App.5th 636, 652; *In re S.M.* (2004) 118 Cal.App.4th 1108, 1116; *In re Louis S.* (2004) 117 Cal.App.4th 622, 630.)

Here, the record fails to show compliance with ICWA’s inquiry and notice requirements. The juvenile court found there was reason to know R.V. is an Indian child and ordered DCFS to give ICWA notice. However, as DCFS concedes, the social worker made insufficient further inquiry into R.V.’s possible Indian status and failed to provide any notice to the relevant tribes or

the BIA. The court then failed to make the requisite ICWA findings at the jurisdiction and disposition hearings.

The parties agree, as do we, that the appropriate remedy in this situation is to remand the matter to the juvenile court to ensure compliance with ICWA. (See *In re Damian C.* (2009) 178 Cal.App.4th 192, 200; *In re Veronica G.* (2007) 157 Cal.App.4th 179, 186–188.) If, after proper notice has been given, it is determined that R.V. is an Indian child within the ambit of ICWA, R.V., her parents, or her tribe may petition the juvenile court to vacate its prior findings and orders, if warranted. (*Ibid.*)

DISPOSITION

The dispositional orders are affirmed. The matter is remanded to the juvenile court with direction to order that DCFS fully comply with ICWA’s inquiry and notice requirements.

BIGELOW, P.J.

We concur:

GRIMES, J.

STRATTON, J.